



1301 Avenue of the Americas, 40th Floor
New York, NY 10019-6022

PHONE 212.999.5800

FAX 212.999.5899

www.wsgr.com

May 7, 2020

VIA CM/ECF

The Honorable Pamela K. Chen
United States District Judge
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Bo Mao, No. 1:19-cr-00392-PKC

Dear Judge Chen:

We represent the defendant, Professor Bo Mao, in the above-captioned criminal case. We write to request that Your Honor “So Order” the attached subpoenas issued by the defense pursuant to Federal Rule of Criminal Procedure 17(c).

As the Court is aware, the allegations against Professor Mao were the subject of prior civil litigation between Huawei Technologies Ltd. and its subsidiary, Futurewei Technologies Inc., (collectively “Huawei”) on one hand and CNEX Labs, Inc. (“CNEX”) and one of its co-founders, Yiren Ronnie Huang on the other. During the April 1, 2020 status conference, the government confirmed that it had obtained from CNEX all of the materials that Huawei previously produced to CNEX in civil discovery and, in turn, produced all of those materials to us as Rule 16 discovery. The government also confirmed, however, that it chose not to obtain—and thus would not be producing—the materials CNEX produced to Huawei in the same litigation. The government elected to do this notwithstanding the fact that the allegations made by the government against Professor Mao arise out of CNEX’s civil counterclaims against Huawei, meaning that one would expect that there would be many relevant—and potentially useful—materials in CNEX’s civil discovery, which the government has chosen not to obtain. As the government acknowledged during the status conference, the defense was “certainly free” to subpoena these materials directly from CNEX. See Status Conference Transcript at pp. 29-30.

Given that we are not certain whether CNEX still possesses all of the materials it produced to Huawei during the course of the civil case, in what format CNEX has maintained those materials, and how promptly CNEX will produce those materials, out of an abundance of caution, we are respectfully requesting that the Court “So Order” the enclosed subpoenas to both CNEX and Futurewei. Of course, once we receive one complete set of the materials, we would not seek to obtain a duplicate set from the other party.

**WILSON
SONSINI**

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Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

s/ Morris J. Fodeman

Morris J. Fodeman

Michael S. Sommer

THOMPSON & KNIGHT LLP

s/ Richard B. Roper, III

Richard B. Roper, III

cc: All Counsel of Record (via CM/ECF)